



**CONTRACTING PROGRAM
AUDIT GUIDE
for Departments with \$150K Exemption**

(Last Rev. Jan. 2018)

**Department of General Services
Office of Audit Services**

CONTRACTING PROGRAM AUDIT GUIDE – AUDIT EXPLANATIONS

Completed By & Date _____

Reviewed By & Date _____

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1. Use of Audit Guide

This audit guide is required to be used when an audit is required as a condition for exemption of an agency's contracts from approval by the Department of General Services (DGS), Office of Legal Services (OLS). Specifically, when an agency is granted an exemption from approval of contracts by the DGS and the exemption is based on the Public Contract Code (PCC) Section 10351, the statutes require an audit of the contracting program every two years. This guide provides steps to be followed in conducting the audit. **IN GENERAL (UNLESS OTHERWISE NOTED), EACH AUDIT STEP B-1 TO B-8 IS MUTUALLY EXCLUSIVE FROM THE OTHER STEPS, AND SHOULD BE APPROACHED WITH THE UNDERSTANDING THAT EACH STEP REQUIRES THE IDENTIFICATION OF A SEPARATE UNIVERSE AND SAMPLING METHODOLOGY.**

2. Quality Control Review by DGS

The PCC Section 10352 requires the DGS to conduct quality control reviews of all audits performed to comply with exemptions granted pursuant to PCC 10351. Strict adherence to this guide will limit the time needed to perform this review and thereby will limit the costs of the DGS review. These costs are billed to the agency.

3. Contract Approval Authority

Sections of the Public Contract Code (PCC) and the Government Code (GC) apply different requirements to different categories of contracts. Within the DGS, the Real Estate Services Division (RESO) is responsible for approval of real estate related contracts, the Procurement Division (PD) is responsible for approval of EDP and Telecommunications contracts (Information Technology - IT), and OLS is responsible for approval of all other categories of contracts. The legal authorities governing approvals of contracts by OLS are summarized in Section 4.05 (Table 4.1) of the State Contracting Manual (SCM).

4. General Audit and Guide Limits

This guide only covers contracts within the jurisdiction of DGS' OLS; however, it is possible that a contract could be created by an Agency that is not subject to OLS' jurisdiction and for those types of contracts no testing needs to take place. The following are some examples of contracts not subject to OLS' jurisdiction:

- Real estate related contracts include such transactions as leases and purchases of real estate which generally come under the control of DGS' Real Estate Services Division (RESO) and, as a result, they do not need to be tested under this audit guide if RESO approved the contract and or if it fell under a delegation issued by RESO.
- EDP and telecommunications contracts include such contracts as the design and installation of an EDP system. If these types of contracts are approved by DGS' Procurement Division or are covered by a special delegation, they also do not need to be tested under this audit guide.

5. PCC Exemption Requirements – Good Internal Control Required

The exemption requirements are set forth in PCC Section 10351. In summary, these requirements necessitate maintaining an internal control system sufficient to provide reasonable assurance of compliance with contracting laws and policies. The specific requirements are as follows:

- (1) Designates an agency officer as responsible and directly accountable for the agency's contracting program.
- (2) Establishes written policies and procedures and a management system that will ensure the agency's contracting activities comply with applicable provisions of law and regulations and that it has demonstrated the ability to carry out these policies and procedures and to implement the management system.
- (3) Establishes a plan for ensuring that contracting personnel are adequately trained in contract administration and contract management.
- (4) Conducts an audit every two years of the contracting program and reports to the department as it may require.

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- (5) Establishes procedures for reporting to the department and the Legislature on such contracts as the Legislature may require in the Budget Act.

6. Exemption Letters

Exemptions are awarded by use of Exemption Letters (See SCM 4.05) which contain the terms and conditions of the exemption including the statutory conditions Stated above. The PCC Sections 10351 covers exemption of contracts under \$150,000 for services. The Exemption Letters describe those contracts that are not included in the exemption.

7. Audit Purpose and Objectives

The general purpose of the audit is to determine compliance with the Exemption Letter issued by DGS under which the agency is operating. In general, the exemption requires that the department maintain an adequate and effective system of internal control over contracting and that the system be sufficient to ensure compliance with the State's contracting laws, policies, and procedures. This leads to the following audit objectives:

- a.) To determine whether the contracting program is complying with the legal requirements for exemption especially as to oversight of the universe of contracts awarded subject to exemption.
- b.) To determine and document (or update) the system of internal controls.
- c.) To determine whether the contracting system, if followed, can be reasonably relied upon to provide adequate internal control and produce contracts in accordance with law, State policies and the best interests of the State.
- d.) To test the effectiveness of the internal controls through evaluation of a sample of contracts awarded since the last audit.
- e.) To determine whether appropriate corrective actions have been implemented in response to previous audit findings.

8. Period of Audit

Unless otherwise specified in the Exemption Letter, the initial audit should cover the period from the granting of the exemption to the last month covered by transaction testing. Subsequent audits should cover from the previous end of transactions testing to the close of testing (approximately a 24 month period). Due to the emphasis on evaluation of current internal controls, emphasis should be on sampling current contracts. Also, for the same reason, it is not necessary to cut-off testing by fiscal year.

9. Use of Audit Standards

This audit should be conducted in accordance with the "International Standards for the Professional Practice of Internal Auditing" published by the Institute of Internal Auditors, Inc.

10. Compliance with Non-exempted Criteria

It is important to note that the exemption from DGS approval does not exempt the contract from any other criteria such as competitive bidding or advertising.

11. Completion of the Audit Survey

Completion of the audit survey (Step B.1) will help the auditor to obtain the information needed to perform the contract tests. Also, the Survey covers some compliance issues that either do not warrant testing or do not lend themselves to testing.

12. Completion of This Audit Guide

The auditor is required to complete the instructions within each step of this audit guide or to provide an explanation as to why the instructions were not followed. An entry as "Not Applicable" or "N/A" must be explained as to why the instructions were not applicable. Performance of the instructions should lead to accomplishment of the objective(s) of each step. While the test steps yield a

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reasonably comprehensive review of the contracting program, the auditor is responsible for adding any additional testing deemed necessary to draw conclusions as to the adequacy of the agency's internal controls.

13. Optional Instructions

Optional instructions have been included in some audit steps. Explanations for not following optional instructions are not required. Most of these are in the Audit Administration section of the guide and relate to steps that are commonly used in audit organizations for control and management of an audit. They have been included for convenience and sometimes to help explain how the completion of the instructions can accomplish the objective(s).

14. Testing/Sampling Strategy

The strategy and extent of testing must necessarily be done in accordance with the professional judgment of the auditor as dictated by circumstances; however, emphasis should be placed on current contracts. Due to the lengthy time lines in the contracting process, the more recently awarded contracts provide a more reliable evaluation of the effectiveness of current internal controls. For this same reason, the data provided by using the fiscal year end as the cut-off date may not be as accurate as using a cut-off date that is closer to the date of the performance of the field work.

The tests in this guide force stratification according to some of the major risk factors. These and other risk factors are listed below. Further stratification according to the other risk factors and the selection of samples according to risks can effectively increase test reliability while maintaining a relatively small sample size. However, this requires analysis of the universe and analysis of the sample in comparison to the universe. In addition, analysis of test results can often lead to expansion of the sample to determine the extent and significance of non-compliance. In such cases, the review of the additional contracts can be limited to the specific issues.

LOWER RISK	versus	HIGHER RISK
Interagency agreements		Contracts with non-State agencies
Contracts approved by the DGS		Contracts approved internally
Contracts with governmental entities		Contracts with private sector suppliers
Contracts with private companies		Contracts with individuals
Contracts with well known companies		Contracts with unknown companies
Contracts for common or routine services		Contracts for rare or unusual services
Contracts exempt from bidding (by law or policy)		Contracts subject to bidding (by law or policy)
Contracts awarded by bidding		Contracts awarded by sole source or negotiation
Awards based on three or more bids		Awards based on fewer than three bids
Awards by invitation to bid (IFB)		Awards by request for proposal (RFP)
Awards by RFP primary		Awards by RFP secondary
Standard contract language and procedures used by trained staff.		Variations from standard language and procedures and/or processing by untrained staff.
Contracts under \$5,000		Contracts of \$5,000 or more

15. Coverage of Accounting, Budgeting, and Expenditure Control Issues

This audit is not intended to cover the accounting, budgeting, or expenditure control processes which interact with the contracting process; however, it should be recognized that a valid contract is generally the legal basis for payments to suppliers of services. In any case, the audit addresses some fiscal and payment control issues as follows:

- Ensuring that the invoices agree with the contract.
- The justification for contracting instead of using State employees.
- Appropriate funding based upon the date of receipt of the services.
- Assignment of responsibility for management of the contract.
- Verification of performance by a knowledgeable person prior to payment of invoices.

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16. Order of Performance of Audit Steps

The audit steps are not required to be performed in the order presented in the guide. Rather, they are numbered to provide a logical sequence for assembly of the work papers. For example, work papers should be numbered based on the Audit Step for which they apply.

17. The Audit Report

A copy of the audit report must be sent to:

Department of General Services
Office of Audit Services
707 3rd Street, 8th Floor
West Sacramento, CA 95605
Interagency Mail Code: Z-1

The report must contain the following:

- The audit scope including the period covered by the audit.
- What audit standards were followed in the conduct of the audit along with any material deviations.
- The extent to which this audit guide was used and explanations of any material deviations.
- The auditor's opinion relative to the internal control system applicable to the contracting process.
- The signature of the auditor and/or the head of the audit organization.
- A response to the findings/recommendations including a commitment to a corrective action plan.
- The auditor's evaluation as to the sufficiency of the response to correct the reported problems.
- A statement as to whether prior corrective action plans have been implemented.

18. Where to Direct Questions about This Guide

Name	Address	Phone/Fax/ Internet
Dennis Miras, Supervisor Office of Audit Services	The Department of General Services Office of Audit Services 707 3 rd Street, 8 th Floor West Sacramento, CA 95605	Telephone 916-376-5064 Facsimile 916-376-5057 Dennis.Miras@dgs.ca.gov

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A.1 FINAL REVIEW OF AUDIT WORK PAPERS (W/P) BY AUDITOR**OBJECTIVE:**

To determine that all steps have been taken to complete the audit and that the W/P are complete.

OPTIONAL INSTRUCTIONS:

Complete a Working Paper Checklist to document quality control review. [SEE A.2, A.4, & A.7]
(See W/P _____)

Initial and Date**A.2 DISTRIBUTE REPORT and CLOSE AUDIT****OBJECTIVE:**

To prepare the audit project for close out.

INSTRUCTIONS:

1. Issue final report with a copy to DGS (See Explanation #17)
- 2. Cross-reference the final report & file in W/P along with the transmittal memo.**
(The entrance conference, exit conference, dates of fieldwork, key statements in the audit, and all audit findings should be cross-referenced back to the supporting work paper documentation).

OPTIONAL INSTRUCTIONS:

1. Ensure that all review notes have been answered and W/P have been corrected.
2. Submit corrected W/P and review notes to Manager. [SEE A.4.5]
3. Review the "Working Paper Checklist". [SEE A.1]
4. Adjust the page numbers of the Table of Contents of the Audit Guide.

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A.3 PROCESS DRAFT AUDIT REPORT**OBJECTIVE:**

To minimize disagreement with the final audit report and thereby maximize effectiveness.

INSTRUCTIONS:

1. Obtain written response and include it in or with the final report.

RECORD DATE

(See W/P _____)

OPTIONAL INSTRUCTIONS:

1. Deliver Discussion Draft.
2. Obtain agreement with Discussion Draft.
3. Issue draft report with response due date as agreed.
File copy of transmittal memo in W/P.

RECORD DATES

(See W/P _____)

EXPLANATION AND TIPS:

1. Contact the Department's Contracts Officer and explain the draft and the report process.
2. Deliver copies of the draft.
3. Discuss draft and answer any questions. Resolve any disagreements to the extent possible.
4. Record the date the response is received.

AUDITOR NOTES, COMMENTS AND W/P REFERENCES:**Initial and Date**

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A.4 DEVELOP DRAFT AUDIT REPORT AND CONDUCT SUPERVISORY REVIEW**OBJECTIVE:**

To produce a draft audit report as supported by the audit work papers.

INSTRUCTIONS:Note the date of completion of field work here.
(usually the exit conference date)**FIELD WORK COMPLETED
ON _____****OPTIONAL INSTRUCTIONS:**

1. Write a draft report and reference it to the W/P.
2. Submit referenced draft and W/P to audit supervisor for review.
3. Clear supervisor review notes.
4. Submit draft and W/P to manager.
5. Clear manager review notes. [SEE A.2.2]

Initial & Date.....(See W/P A.3)

Initial & Date.....(See W/P _____)

Initial & Date.....(See W/P _____)

Initial & Date.....(See W/P _____)

Initial & Date.....(See W/P _____)

A.5 DEVELOP POINT SHEETS**OBJECTIVE:**

To determine that findings contain all required elements and warrant reporting.

INSTRUCTIONS:

1. Summarize and analyze each finding as to the condition, criteria, cause, effect, and recommendation

OPTIONAL INSTRUCTIONS:

Use a "Point Sheet" (PS) to document the analysis. Each finding must be referenced from point sheet to test write-up.

AUDITOR NOTES, COMMENTS AND W/P REFERENCES:

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A.6 DEVELOP OBSERVATIONS – UNREPORTED FINDINGS**OBJECTIVE:**

To determine that findings excluded from the audit report:

- contain the elements of a finding (condition, criteria, cause, effect, recommendation)
- are explained as to why they have not been reported,
- are appropriately cleared with departmental staff.

INSTRUCTIONS:

1. Record and analyze observations including the following information:
 - a brief description of the finding,
 - why it is not reportable,
 - the disposition of the finding.
2. Note the number of observations here.
3. Each finding in observation control sheet must be referenced to test write-up.

EXPLANATION AND TIPS:

This provides a systematic approach to deal with findings that do not warrant reporting for such reasons as a lack of sufficient significance.

AUDITOR NOTES, COMMENTS AND W/P REFERENCES:**Initial and Date****A.7 COMPLETE THIS AUDIT GUIDE****OBJECTIVE:**

To determine that all audit steps have been completed or explained and to summarize the audit results.

INSTRUCTIONS:

1. Review this audit guide to ensure completion.
2. Ensure that all steps not completed are fully explained. Steps considered as “not applicable” or otherwise omitted must be explained.
3. In the “Auditor Notes, Comments, and W/P References” section of each audit test, the test must be briefly described along with the results. When applicable, findings must be referenced to point sheets and observations.

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A.8 CONDUCT EXIT CONFERENCE(S)**OBJECTIVES:**

1. To inform the auditee's management about audit results and to obtain their positions on the findings.
2. To assist in ensuring that the information related to findings is correct.
3. To ensure that the auditee's management understands the reporting process.

INSTRUCTIONS:

Conduct an exit conference with appropriate management staff.

OPTIONAL INSTRUCTIONS:

The following actions should be taken during the meeting:

- Have each person present at the meeting sign the attendance sheet.
- Explain the reporting process.
- Explain the finding process (reportable vs. non-reportable findings) and how you need an indication of their position (agree/disagree) on each finding.
- Fully discuss reportable findings and briefly explain non-reportable findings.
- Explain that actions should be taken on the findings immediately, if possible. If corrective actions are taken prior to the issuance of the draft report, please advise the lead auditor and those actions will be taken into account in preparing the draft report.
- Record comments made by Auditee's management on each issue.

EXPLANATION AND TIPS:

Normally the officer responsible for the department's contracting program [See Explanation # 5 (1)] should attend the exit conference and the meeting should be documented.

AUDITOR NOTES, COMMENTS AND W/P REFERENCES:**Initial and Date**

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A.9 NOTIFY AUDITEE AND EXPLAIN AUDIT**OBJECTIVE:**

To explain the audit, to arrange logistics, and to give advance notice of the audit.

INSTRUCTIONS:

Conduct an entrance conference with management of the contracting program.

EXPLANATION AND TIPS:

A sign-in sheet is normally used at the entrance and engagement letters are sometimes used.

AUDITOR NOTES, COMMENTS AND W/P REFERENCES:**Initial and Date**

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A.10 FOLLOW-UP ON PRIOR AUDIT FINDINGS**OBJECTIVE:**

To ensure prior audit findings were addressed and corrective action was taken.

INSTRUCTIONS:

1. Identify and review prior audit findings.
2. Perform appropriate follow-up activity and document results.

EXPLANATION AND TIPS:

N/A.

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A.11 RECORD KEY STAFF CONTACTED**OBJECTIVE:**

To provide a quick reference of key staff contacted and/or interviewed during the audit.

OPTIONAL INSTRUCTIONS:

1. Develop a list of key staff contacted during the audit with their titles and telephone numbers. Either list them here or create a separate W/P.
2. Note those designated to get a copy of the final report.

EXPLANATION AND TIPS:

- It is advisable to have a list of people you contact frequently during the audit. Having such a listing is particularly useful during the W/P review and processing of the audit report. The column on the right is provided for noting report recipients.
- If you choose to create a separate W/P, a collection of business cards can be stapled on a sheet(s).

NAME	TITLE	PHONE	REPORT [R]

Initial and Date

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A.12 ADD OTHER STEPS AS NECESSARY

Determine whether additional audit steps are needed and add steps as appropriate.

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B.1 SURVEY OF THE CONTRACTING SYSTEM**OBJECTIVES OF SURVEY:**

1. To gather information needed to conduct audit tests.
2. To identify internal control weaknesses and areas of non-compliance.
3. To document the system as needed for understanding.
4. To identify issues that may influence testing or audit emphasis.
5. To determine the audit resources needed to complete the tests in this section of the audit.

AUTHORITIES/CITATIONS:

PCC 10295, 10335, and 10308; SAM Chapter 1200 & 3810; SCM Vol.1

INSTRUCTIONS:

1. Answer the survey questions (SQ) in the Contracting Program Audit Survey and analyze the results relative to the above objectives.

*Note: During the survey, the contracting process should be documented.***OPTIONAL INSTRUCTIONS:**

1. The analysis should be page one of W/P B.1 with the Survey being page two. This should be followed by information obtained during the survey.
2. Discuss the audit plan with and obtain approval from the audit supervisor.

AUDITOR NOTES, COMMENTS AND W/P REFERENCES:**Initial & Date**

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B.2 TEST OF CONTRACTS EXEMPTED FROM DGS APPROVAL**OBJECTIVES:**

1. To determine the validity of the criteria applied by the agency.
2. To determine whether the contracts exempted meet the criteria.
3. To determine whether the contracts are subject to advertising in the FISCAL SCPRS. (Some exemptions from approval do not exempt the contracts from advertising.)
4. If the contracts are subject to advertising, to determine if they are being advertised.

AUTHORITIES/CITATIONS:

PCC 10295, 10335; SAM Chapter 1200; State Contracting Manual (SCM) Vol.1, Chapter 4 (4.06); AG Opinions

INSTRUCTIONS:

1. If the department is NOT submitting a type or group of contracts to DGS for approval when such approval is normally required, conduct this step. These are normally grants or contracts that have been explicitly exempted from approval by statute.
2. Test the exempted contracts for compliance with the exemption criteria. For grants, also test for whether the State receives consideration. Do not test grants that need DGS approval.

EXPLANATIONS AND TIPS:

The scope of the review should include identifying "ALL" classes and types of contracts (WHETHER USING THE STANDARD CONTRACTING FORMAT OR NOT) that are considered by the Department as not subject to the DGS' authority.

Further, a review for exempted classes of contracts should include but not necessarily be limited to verbally asking the Contracts Manager if they 1) know of, or 2) consider any classes of contracts and or grants that are not subject to the DGS' authority. Also, additional analysis should be conducted of the Department as a whole to determine if programs outside the Department's main Contracting Unit are awarding their own types of contracts and grants using non-standard contracting formats that may be subject to the DGS' authority but inappropriately considered exempt.

After "ALL" classes and types of the above types of contracts have been identified, testing on a sample basis should be done to ensure that the exemption criteria (such as Statutes) have been properly interpreted and applied.

If the criterion for exemption is that the contracts are "grants", review SCM Vol.1, 4.06.

The Attorney General's opinions exempting grants from DGS approval are primarily based on the concept that grants are not contracts in the sense of the approval statutes. A grant is essentially a gift in that the State does not receive any consideration in exchange for the funds. Since unauthorized gifts of State funds are illegal, grants must be authorized by law – usually specific statutes. The issue of exemption may have already been resolved in a previous audit.

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B.3 TEST FOR DGS APPROVAL & APPROVED CONTRACTS COMPLIANCE**OBJECTIVES:** (For those contracts normally submitted by the agency for DGS approval.)

1. To determine that the contracts are being approved.
2. To determine whether amendments are being submitted for approval.
3. To determine the effectiveness of controls for timely submission of contracts and compliance with criteria not determinable by the DGS at the time of approval.

(Complete all "instructions" below for this audit step)

AUTHORITIES/CITATIONS:

PCC 10295, 10335; GC 19130 (b); SPB Regulations (2 CCR 547.60); SAM Chapter 1200; SCM Vol. 1, Chapter 4; Senate Bill 71 (Chapter 28, 2013); 150K Exemption Letter

INSTRUCTIONS:

1. Scan a sample of the physical files of each universe of contracts for evidence of approvals by the DGS.
(A sample should be taken directly from the physical contract unit files as opposed to taken 100% from the "contract log data information" to help prevent picking a potentially biased sample.)
2. Choose some of the files observed in #1 and verify DGS approval of amendments.
3. Test a sample of the contracts approved by DGS for compliance with timely approval(s), and, to the extent feasible, the agency's enforcement of performance control provisions in the contract.
4. Contracting for Personal Services, in lieu of using civil service personnel, is permitted only if the standards outlined in GC 19130 (a) or (b) are met. See SCM Vol. I, Section 7.05. Verify that the contract file includes supporting detailed factual information.
5. If the contract is for consultant services over \$5,000 and has been closed for at least 60 days, test for completion of an evaluation (Form 4) in accordance with SCM Vol.1, 3.02.5 (Use the Consulting Services Report).
6. Verify that all contracts at \$5,000 and over (except reimbursement agreements) are entered into the SCPRS.

EXPLANATIONS AND TIPS:

- The primary contracts requiring DGS approval are those equal to or greater than \$150,000 for departments with \$150k Exemption.
- It is not necessary to record the contracts scanned per Step #1. Note the contract numbers of those files reviewed for approvals of amendments.
- Do not include Interagency Agreements in the sampling of this audit step; instead, they should be tested under audit step B.7.
- Record relevant data for those files tested per Step #3; include these contract samples in Payments testing B.9.
- Contract approval after the contract start date is not necessarily an audit finding. See AO 06-05.
- If the contract **has a term start date**, auditor should check the entire contract language to see if the following language is included: "This Agreement will commence on the start date as presented herein or upon approval by DGS, whichever is later and no work shall begin before that time. This Agreement is of no effect unless approved by DGS. The Contractor shall not receive payment for work performed prior to approval of the Agreement and before receipt of notice to proceed by the Contract Manager."
- If the cover letter has this language, then you would not mark this as a "late approved contract," however, you would need to check that services are not being performed prior to the contract start date OR approval date, whichever is LATER.

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- If the contract does not have a term start date, but just states “upon approval,” you would never have a finding regarding late contracts... however, you would still need to verify that the work was not started prior to contract approval.
- If work is found for services performed prior to the start date/contract approval, they are not to be paid, as there was no valid contract. The invoices should be disputed, and those claims need to go to the Victim Compensation Board. However, if the contract does have a term start date, and there is no language in the contract stating that the work will commence on the start date or upon approval, whichever is later, then you would check for late approval; however, all work is ratified upon approval. Therefore, services can be paid from the term start date (per SCM Vol.1 4.09).

Auditor must check for the words “upon approval” within the contract. If these words appear, you would never have a finding on late approvals; however your emphasis then shifts to the date services began.

EXAMPLES:

ABC’s contract with DEF vendor.

The contract term is “upon approval” through “December 31, 2009”. The contract was approved on February 10, 2009. Any invoices submitted for work prior to 2/10/09 CANNOT be paid, as there was no valid contract.

The contract term is “December 31, 2008” through “December 31, 2009”, but the contract has language stating that the start date is 12/31/2008 or upon approval, whichever is later. The contract was approved on February 10, 2009. Any invoices submitted for work prior to 2/10/09 CANNOT be paid, as there was no valid contract.

The contract term is “December 31, 2008” through “December 31, 2009”, and there is no contract language stating “or upon approval, whichever is later”. The contract was approved on February 10, 2009. It ratified all work done between 12/31/08 and 2/10/09.

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B.4 TEST OF DELEGATED CONTRACTS**OBJECTIVE:**

To determine the effectiveness of controls for compliance with general contracting criteria by scrutinizing the contracts to the same degree as if they had been submitted to the OLS for approval.

(Complete all "instructions" below for this audit step)

AUTHORITIES/CITATIONS:

PCC 10295, 10335; GC 19130 (b); SPB Regulations (2 CCR 547.60); SAM Chapter 1200; SCM Volume 1, Chapter 4; Delegated Contracting Audit Tools; ITPL 11-02; AO 06-05; \$150K Exemption Letter

INSTRUCTIONS:

Test a sample of the contracts of \$5,000 or more approved by auditee in accordance with SCM Volume 1 requirements. Test for general compliance with applicable contracting criteria using SCM Vol.1, 4.04 and the Delegated Contracting Audit Tools.

EXPLANATIONS AND TIPS:

(Contact agency's assigned attorney at DGS/OLS with any concerns or questions at 376-5080)

- Contracts for your department over \$149,999 are generally required to be approved by the DGS, OLS and those contracts are tested per AUDIT STEP B.4. Contracts under \$5,000 are tested per AUDIT STEP B.6. Therefore, this test covers delegated contracts from \$5,000 to under \$150,000 exemption limit.
- Contracting for Personal Services, in lieu of using civil service personnel, is permitted only if the standards outlined in GC 19130 (a) or (b) are met. See SCM Vol.I, Section 7.05. Verify that the contract file includes supporting detailed factual information.
- Make sure to review the Non-Competitively Bid (NCB) Contract Justification form for completeness.
- The sample of contracts reviewed in this test should be included in the test of contract payments. [SEE AUDIT STEP B.9]. In particular, those awarded in the current fiscal year that were not submitted timely should be tested. Also, pay attention to real estate related contracts and contracts for telecommunications activities.
- Do not include amendments in the test for timely approvals.
- Contract approval after the contract start date is not necessarily an audit finding. See AO 06-05.
 - If the contract **has a term start date**, auditor should check the entire contract language to see if the following language is included: "This Agreement will commence on the start date as presented herein or upon approval by DGS, whichever is later and no work shall begin before that time. This Agreement is of no effect unless approved by DGS. The Contractor shall not receive payment for work performed prior to approval of the Agreement and before receipt of notice to proceed by the Contract Manager."
 - If the cover letter has this language, then you would not mark this as a "late approved contract," however, you would need to check that services are not being performed prior to the contract start date OR approval date, whichever is LATER.
 - If the contract does not have a term start date, but just states "upon approval," you would never have a finding regarding late contracts... however, you would still need to verify that the work was not started prior to contract approval.
 - If work is found for services performed prior to the start date/contract approval, they are not to be paid, as there was no valid contract. The invoices should be disputed, and those claims need to go to the Victim Compensation Board. However, if the contract does have a term start date, and there is no language in the contract stating that the work will commence on the start date or upon approval, whichever is later, then you would check for late approval; however, all work is ratified upon approval. Therefore, services can be paid from the term start date (per SCM Vol.1, 4.09).
- Use Form A, B, B.1, C & D from Delegated Contracting Audit Tools to perform this test.

Auditor must check for the words "upon approval" within the contract. If these words appear, you would never have a finding on late approvals; however your emphasis then shifts to the date services began.

EXAMPLES: ABC's contract with DEF vendor.

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The contract term is “upon approval” through “December 31, 2009”. The contract was approved on February 10, 2009. Any invoices submitted for work prior to 2/10/09 CANNOT be paid, as there was no valid contract.

The contract term is “December 31, 2008” through “December 31, 2009”, but the contract has language stating that the start date is 12/31/2008 or upon approval, whichever is later. The contract was approved on February 10, 2009. Any invoices submitted for work prior to 2/10/09 CANNOT be paid, as there was no valid contract.

The contract term is “December 31, 2008” through “December 31, 2009”, and there is no contract language stating “or upon approval, whichever is later”. The contract was approved on February 10, 2009. It ratified all work done between 12/31/08 and 2/10/09.

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B.5 TEST OF SMALL DOLLAR VALUE CONTRACTS**OBJECTIVE:**

To determine whether small dollar value service order or service authorization methodologies are being used to circumvent applicable contracting criteria. In particular, contracts for \$5,000 or more should normally contain the applicable contract language and may be subject to advertising, and competitive bidding. Also, for service contracts less than \$5,000, determine if contracts are compliant with informal competition.

(Complete all "instructions" below for this audit step)

AUTHORITIES/CITATIONS:

PCC 10295, 10335; SAM Chapter 1200; SCM Vol.1, 2.07, Chapter 4, 5.90 & 7.40

INSTRUCTIONS:

1. If an authorizing document is being used to contract for services of \$5,000 or more, review the language used to ensure compliance with applicable contract clauses, see table 2.2 of the SCM Vol. 1, 2.07.
2. Test a sample of services acquisitions, if any are discovered, that are for a value of \$5,000 or more to determine whether they should have been subjected to contracting criteria especially competitive bidding and non-competitively bid controls.
3. If a log or data base of the services acquisitions is kept, review the data to determine that transactions are not being split to circumvent the required competitive bidding level (\$5,000).
4. For transactions less than \$5,000, if only one offer is obtained, verify that cost justification is documented.
5. When applicable, review the contracts for the following:
 - a) Traffic Management approval of invoices for freight, storage, and service bills which involve State shipping charges, prepaid and collect, and public utility warehouse charges, SAM 3806.1.;
 - b) ORIM approval for any type of insurance purchases or purchases of hazardous services of any dollar amount (SCM Vol.1, 3.12), SAM 2400's;
 - c) OFA approval required for: vehicle modifications; purchase of additional or replacement mobile equipment; invoices for repairs of vehicles (mechanical or accident) over \$500, SAM 4103 & 4110; SAM 4115 & 4116, OFA State Fleet Handbook;
 - d) Also, be aware of real estate related transactions for possibly required programmatic approval by RESD.
6. If printing services are found, verify that MM 07-06 is being followed.

EXPLANATIONS AND TIPS:

All agencies use some form of informal contracting methodology or methodologies to obtain small dollar value services. The documents used are processed as "Service Orders", "Service Authorizations", etc. Some may use purchasing documents. Some do not use an authorization document for the acquisition and simply authorize payment via an approved invoice (sometimes referred to as a "direct payment"). Some may use the CAL-Card for small services [See AUDIT STEP B.8].

Review the agencies policies and procedures to test for compliance of service orders and authorizations.

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B.6 TEST OF INTERAGENCY AGREEMENTS**OBJECTIVE:**

To determine if interagency agreements comply with the criteria applicable to such agreements.

(Complete all "instructions" below for this audit step)

AUTHORITIES/CITATIONS:

Government Code 11256; SCM Vol.1, 1.06, 3.03, 3.18, 4.04 & 7.50; SAM 8752; Delegated Contracting Audit Tools

INSTRUCTIONS:

Test a small sample of interagency agreements for the following attributes:

1. Were those equal to or greater than \$1,000,000 (new exemption limit) approved by the DGS (SCM Vol.1, 4.04)?
2. Were those over \$150,000 for UC and CSU approved by the DGS (SCM Vol.1, 4.04)?
3. Did the agreement contain the required financial control language (SCM Vol.1, 3.03, C.3)?
4. Did those of \$10,000 or more contain the required BSA audit clause (SCM Vol.1, 3.03, C.4)?
5. If a subcontractor was to be used, was competitive bidding required (SCM Vol.1, 3.03 & 3.18)?
6. Was the interagency agreement used to circumvent contracting requirements such as competitive bidding (SCM Vol.1, 3.18, 4.04, A.5)?

EXPLANATIONS AND TIPS:

Emphasis should be placed on testing agreements with the UC, CSUC, or any other agency that is not subject to the same controls as the awarding department. If the agencies entering into the agreement have different levels of authority, the rules of the agency paying for the services prevail.

Do not test IA's in contract payments (Audit Step B.9) or for the late approval criteria.

Use Form E from the Delegated Contracting Audit Tools for this audit step.

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B.7 TEST OF ACQUISITIONS OF SERVICES PAID BY CALCARD**OBJECTIVES:**

1. To determine if services paid by charges on the CAL-Card are acquired in accordance with contracting criteria such as advertising, competitive bidding, and programmatic approvals.
2. To determine if the CAL-Card service transactions are being split to avoid dollar limits.
3. To determine if the service transactions are properly authorized and reviewed by management/supervisory personnel.

(Complete all "instructions" below for this audit step)

AUTHORITIES/CITATIONS:

CAL-Card Agreement; the auditee's policies and procedures; SCM Vol.1, 7.34; SCM Vol. 2, 9.B3.0 – 9.B3.7 and 9.B4 – 9.B6

INSTRUCTIONS and TIPS:

1. If the agency is participating in the CAL-Card Program, conduct this audit step.
2. Review the details of a sample of billings for services to determine whether the CAL-Card is being used (*sample should be pulled from accounting records, not program records*):
 - a. To circumvent service contracting requirements (generally applicable to services costing \$5,000 or more) such as using written agreements and competitive bidding.
 - b. If a service transaction of \$5,000 or more is located, test in accordance with criteria used for audit step B.6.
 - c. For items for personal (i.e., non-State business) use or gain.
3. Verify that the monthly cardholder statement of account is signed by the authorized employee for that account and the authorized approving official for that account.

NOTE: The Auditor should analyze the various card holder spending limits authorized for single and monthly purchase spending limits in order to pick a sample of card holders that would be best suitable for testing. (For example, in many instances it may be appropriate to only test card holders with single spending limits over \$2000 (and a monthly limits over \$5,000) where it would take no more than three separate purchases to circumvent the \$5,000 competitive bid limit.)

EXPLANATIONS AND TIPS:

(For concerns and questions regarding the Cal-Card program contact 375-4579)

- ◆ For CAL-Card purchases greater than \$5,000, a written contract or purchase document is required.
- ◆ As a payment mechanism, use of the CAL-Card does not relieve the agency from compliance with any laws or policies governing contracting such as documenting competitive quotes, advertising, or entering into a written agreement with all applicable standard language. The CAL-Card may be used to pay for acquisitions up to \$50,000 (effective 9/1/05) per transaction.
- ◆ Because CAL-Cards are used directly by individual employees as a payment mechanism, the auditor must closely review transactions for indications of fraud or abuse, such as use for personal gain.

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B.8 TEST OF PAYMENTS VERSUS AGREEMENTS**OBJECTIVE:**

To determine if the services being paid per the invoice(s) are in accordance with the agreements.

(Complete all "instructions" below for this audit step)

AUTHORITIES/CITATIONS:

SCM Vol.1, 4.09, 7.29, 7.30, 7.32, 7.33, 9.04; Delegated Contracting Audit Tools

INSTRUCTIONS:

1. Review the first invoice payment for each contract tested under AUDIT STEP B.4 and B.5 to determine if work started prior to approval (SCM Vol.1, 4.09).
 - a. Was payment made prior to contract approval (SCM Vol.1, 4.09)?
2. Does the invoice cover work performed outside of the period of performance of the contract (SCM Vol.1, 9.04)?
3. Test a sample of recent payments made on contracts used under AUDIT STEPS B.4 and B.5. Test for the following attributes:
 - a. Does the description of services on the invoice match the description in the contract (SCM Vol.1, 9.04)?
 - b. Does the invoice agree with the terms for payment specified in the contract (SCM Vol.1, 9.04)?
 - c. If the invoice indicates payment of a subcontractor, was this authorized by the contract (SCM Vol.1, 9.04)?
 - d. If the invoice includes equipment purchases, were the purchases authorized by the contract (SCM Vol.1, 7.29 & 9.04)?
 - e. If the contract is for reimbursement of actual costs, does the invoice appear to be for actual costs and in accordance with the required contract budget (SCM Vol.1, 7.30)?
 - f. If the invoice was for a progress payment, was this authorized by the contract and was 10% withheld, if applicable (SCM Vol.1, 7.33)?
 - g. If the invoice was for an advance payment, was this authorized by the contract (SCM Vol.1, 7.32)?

EXPLANATIONS AND TIPS:

(Refer to the Delegated Contracting Audit Tool “Form A” when answering the questions above and complete “Form F”)

For instruction #1, as provided in SCM, Vol.1, 4.09, the basic State policy is that no contractor should start work until receiving a copy of the formally approved contract.

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B.9 TEST OF CONTRATOR REPORTING OF DISABLED VETERANS BUSINESS ENTERPRISE (DVBE) SUB-CONTRACTOR USAGE**OBJECTIVES:**

To determine if a department has policies and procedures in place to ensure that contractors are reporting the actual percentage of DVBE sub-contracting usage within 60 days of receiving final payment for the contract.

(Complete all "instructions" below for this audit step)

AUTHORITIES/CITATIONS:

GC Section 14841; SCM Vol. 1, 8.16 (c) & 8.20 (g); GTC 610, # 19, a & b; Military & Veterans Code 999.5 (d); Regulation 1896.78; DGS – Procurement Division Bulletin #: P-19-14

INSTRUCTIONS and TIPS:

1. Verify if the department is obtaining a report from the contractor that states the following for DVBE subcontracting participation within 60 days of receiving final payment for the contract:
 - Total dollar amount department paid to prime contractor.
 - Name and address of DVBE(s) that participated in the performance of the contract.
 - The amount each DVBE received from the prime contractor.
 - That all payments under the contract have been made to the DVBE(s).
 - The actual percentage of DVBE participation achieved.
2. Verify if the department is submitting the State Department's Contractor DVBE Subcontracting Consolidation Report (STD 810 D) to the OSDS, beginning with FY 2014/15. The first report is due on November 1, 2015, and thereafter, annually on November 1st, per DGS – Procurement Division Bulletin #: P-19-14.

EXPLANATIONS AND TIPS:

- Review Contracting Survey question # 27, (I).
- Pull current and previous STD 810 report to identify reporting of SB / DVBE sub-contractor usage.
- Purpose of the test is only to verify the completion of the report, not the accuracy of the numbers reported.

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B.10 TEST OF FI\$CAL SCPRS DATA**OBJECTIVES:**

1. To determine that complete contracting information is entered into the Financial Information System for California (FI\$Cal) / State Contract and Procurement Registration System (SCPRS).
2. To determine that accurate contracting information is reported in FI\$Cal SCPRS.

(Complete all "instructions" below for this audit step)

AUTHORITIES/CITATIONS:

Executive Order B-12-11; MM 16-03; State Contracting Manual (SCM), FI\$Cal, (Ch.9, Section E).

Per MM 16-03, Effective July 1, 2016, new requirement to report all acquisitions of goods and services, regardless of dollar amount in FI\$Cal SCPRS.

INSTRUCTIONS:

Note: Test samples should be pulled from the contracting log and from the FI\$Cal SCPRS database.

Test a sample of contracts for the following:

Select a sample of contracts to:

1. Verify complete and accurate data from the contracting transactions (including all applicable amendments) are reported into the FI\$Cal SCPRS database.
2. Verify complete and accurate data from the FI\$Cal SCPRS database traces back to a sample of contracts identified on the contracting logs.
3. Complete Tool (Form G) and analyze findings.

EXPLANATIONS AND TIPS:

- Refer to Audit Instruction Manual: *How to Conduct a SCPRS Data Search for Audit Verification.*
- Select samples from recent contracts. *Note: Auditor should include amendments in the sample selection. Avoid transactions that are within the last 30 days to allow enough time for delays within the system to upload recent transactions.*
- Document the representative samples of contracting transactions from the FI\$Cal SCPRS database.

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B.11 ADD OTHER STEPS AS NECESSARY

Determine whether additional audit steps are needed and add steps as appropriate.